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R.P. 18-14
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**DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection**

DEPARTMENT OF THE TREASURY

19 CFR Part 12

CBP Dec. 19-03

RIN 1515-AE45

**Extension of Import Restrictions Imposed on Archaeological and Ecclesiastical
Ethnological Material from Honduras**

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security;
Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the U.S. Customs and Border Protection (CBP) regulations to reflect an extension of import restrictions on certain archaeological and ecclesiastical ethnological material from Honduras. The restrictions, which were originally imposed by CBP Dec. 04-08 and last extended by CBP Dec. 14-03, are due to expire March 12, 2019. The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has made the requisite determination for extending the import restrictions that previously existed and entering into a new Memorandum of Understanding (MOU) with Honduras to reflect

the extension of these import restrictions. The new MOU supersedes the existing agreement that became effective on March 12, 2014. Accordingly, these import restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to reflect this further extension through March 12, 2024. CBP Dec. 14-03 contains the amended Designated List of archaeological and ecclesiastical ethnological material from Honduras to which the restrictions apply.

EFFECTIVE DATE: March 12, 2019.

FOR FURTHER INFORMATION CONTACT: For legal aspects, Lisa L. Burley, Branch Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of Trade, (202) 325-0215, ot-otrrculturalproperty@cbp.dhs.gov. For operational aspects, Christopher N. Robertson, Branch Chief, Commercial Targeting and Analysis Center, Trade Policy and Programs, Office of Trade, (202) 325-6586, CTAC@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to the Convention on Cultural Property Implementation Act, Pub. L. No. 97-446, 19 U.S.C. 2601 *et seq.*, which implements the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)), the United States entered into a bilateral agreement with the Republic of Honduras (Honduras) on March 12, 2004, concerning the imposition of import restrictions on certain archaeological material representing the Pre-Columbian cultures of Honduras and ranging in date

from approximately 1200 B.C. to 1500 A.D. On March 16, 2004, U.S. Customs and Border Protection published CBP Dec. 04-08 in the *Federal Register* (69 FR 12267), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions and included a list designating the types of archaeological material covered by the restrictions.

Import restrictions listed at 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period may be extended for additional periods of not more than five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists.

On March 11, 2009, CBP published a final rule (CBP Dec. 09-05) in the *Federal Register* (74 FR 10482), which amended § 12.104g(a) to reflect the extension of these import restrictions for an additional five years, to March 12, 2014.

On September 24, 2013, the United States Department of State proposed in the *Federal Register* (78 FR 58596) to extend the agreement through a bilateral agreement between the United States and Honduras concerning the imposition of import restrictions on archaeological material from the pre-Columbian cultures of Honduras. On February 11, 2014, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, made the necessary determinations to extend the import restrictions for an additional five years. Additionally, pursuant to his statutory and decision-making authority, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, included the coverage of certain ecclesiastical ethnological material to the Designated List. On March 12, 2014, CBP published a final rule (CBP Dec. 14-03) in the *Federal Register* (79 FR 13873). This final rule amended § 12.104g(a) to reflect the extension of these import restrictions for an additional five

years and added restrictions on ecclesiastical ethnological material dating to the Colonial Period of Honduras, c. A.D. 1502 to 1821. The amended Designated List of archaeological and ecclesiastical ethnological material is set forth in CBP Dec. 14-03. These import restrictions are due to expire on March 12, 2019.

On December 14, 2018, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, after consultation with and recommendations by the Cultural Property Advisory Committee, determined that the cultural heritage of Honduras continues to be in jeopardy from pillage of certain archaeological and ecclesiastical ethnological material and that the import restrictions should be extended for an additional five years. Subsequently, a new MOU was concluded between the United States and Honduras. The new MOU supersedes and replaces the prior MOU and extends the import restrictions that went into effect under the prior MOU for an additional five years. This MOU is titled: “Memorandum of Understanding between the Government of the United States of America and the Government of Republic of Honduras Concerning the Imposition of Import Restrictions on Archaeological Material from the Pre-Columbian Cultures of Honduras and Ecclesiastical Ethnological Materials from the Colonial Period of Honduras.” Accordingly, CBP is amending 19 CFR 12.104g(a) to reflect the extension of the import restrictions.

The restrictions on the importation of archaeological and ecclesiastical ethnological material are to continue in effect through March 12, 2024. Importation of such material from Honduras continues to be restricted through that date unless the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c are met.

The Designated List and additional information may also be found at the following website address: <https://eca.state.gov/cultural-heritage-center/cultural-property-advisory-committee/current-import-restrictions> by selecting the material for “Honduras.”

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure under 5 U.S.C. 553(a)(1). For the same reason, a delayed effective date is not required under 5 U.S.C. 553(d)(3).

REGULATORY FLEXIBILITY ACT

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

EXECUTIVE ORDERS 12866 and 13771

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 or Executive Order 13771 because it pertains to a foreign affairs function of the United States, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866 and section 4(a) of Executive Order 13771.

SIGNING AUTHORITY

This regulation is being issued in accordance with 19 CFR 0.1(a)(1), pertaining to the Secretary of the Treasury’s authority (or that of his/her delegate) to approve regulations related to customs revenue functions.

List of Subjects In 19 CFR Part 12

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

Amendment to CBP Regulations

For the reasons set forth above, part 12 of title 19 of the Code of Federal Regulations (19 CFR part 12) is amended as set forth below:

PART 12 – SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

AUTHORITY: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

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2. In § 12.104g, the table in paragraph (a) is amended by removing the words “CBP Dec. 04-08 extended by CBP Dec. 14-03” and adding in their place the words “CBP Dec. 14-03 extended by CBP Dec. 19-03”.

Kevin K. McAleenan,
Commissioner,
U.S. Customs and Border Protection.

Approved: March 7, 2019

Timothy E. Skud
Deputy Assistant Secretary,
Department of the Treasury.

[FR Doc. 2019-04428 Filed: 3/11/2019 8:45 am; Publication Date: 3/12/2019]